

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JOSEPH RICKY JACKSON,)	Civil Action No. 10 - 247
)	
Plaintiff,)	Judge Gibson
)	Chief Magistrate Judge Lenihan
v.)	
)	
JONATHON WOLF, <i>et al.</i> ,)	ECF Nos. 32 & 48
)	
Defendants.)	
)	

ORDER

Plaintiff's Complaint was received by the Clerk of Courts on September 28, 2010 and was referred to Chief United States Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges.

The Magistrate Judge's Amended Report and Recommendation (Doc. No. 85) filed on January 23, 2012, recommended that the Motion to Dismiss (ECF No. 32) filed by Defendants Altoona Regional Hospital, Doctor John Doe #6, Doctor John Doe #7, Doctor Jane Doe #4 be granted, and that any state law claim for medical malpractice against these Defendants be dismissed without prejudice. It was further recommended that the Motion to Dismiss filed by Defendant Natalie Ross (ECF No. 48) be granted in part and denied without prejudice in part. It was recommended that Defendant Ross' Motion to Dismiss be denied without prejudice as it related to Plaintiff's Eighth Amendment claim and First Amendment retaliation claim. It was further recommended that Plaintiff be granted leave to amend his Complaint as to these claims against Defendant Ross only. The Magistrate Judge recommended that the Eighth and First Amendment Retaliation claims be dismissed with prejudice if Plaintiff fails to file a curative amendment within the time allowed by this Court. Finally, it was recommended that Defendant

Ross' Motion to Dismiss as to all other claims be granted.

Service was made on all counsel of record and pro se Plaintiff Joseph Ricky Jackson. The parties were informed that in accordance with the Magistrate Judge's Act, 28 U.S.C. § 636(b)(1)(B) and (C), and Federal Rule of Civil Procedure 72(b)(2), and Local Rule of Court 72.D.2., the parties had fourteen (14) days from the date of service to file objections to the Amended Report and Recommendation. No objections were filed.

After review of the pleadings and the documents in the case, together with the Amended Report and Recommendation, the following Order is entered:

AND NOW, this 15th day of March, 2012,

IT IS HEREBY ORDERED that the Motion to Dismiss (ECF No. 32) filed by Defendants Altoona Regional Hospital, Doctor John Doe #6, Doctor John Doe #7, Doctor Jane Doe #4 is **GRANTED**, and any state law claim for medical malpractice against these Defendants is **DISMISSED WITHOUT PREJUDICE** to re-file in state court if Plaintiff so desires.

IT IS FURTHER ORDERED that the Motion to Dismiss filed by Defendant Natalie Ross (ECF No. 48) is **GRANTED IN PART AND DENIED WITHOUT PREJUDICE IN PART**. Defendant Ross' Motion to Dismiss is **DENIED WITHOUT PREJUDICE** as it relates to Plaintiff's Eighth Amendment claim and First Amendment retaliation claim. **IT IS FURTHER ORDERED** that Plaintiff shall have 30 days from the date of this Order to file an Amended Complaint against Defendant Ross only, relating to Plaintiff's Eighth Amendment claim and First Amendment retaliation claims only. If Plaintiff fails to file a curative amendment within 30 days from the date of this Order, Plaintiff's Eighth and First

Amendment Retaliation claims will be dismissed with prejudice.

IT IS FURTHER ORDERED that Defendant Ross' Motion to Dismiss
as to all other claims is **GRANTED**.

IT IS FURTHER ORDERED that the Amended Report and
Recommendation (Doc. No. 85) of Magistrate Judge Lenihan, dated January 23, 2012, is adopted
as the Opinion of the Court.

BY THE COURT

A handwritten signature in black ink, appearing to read "Kim R. Gibson", written over a horizontal line.

Honorable Kim R. Gibson
United States District Judge

cc:

All counsel of record
Via Electronic Mail

Joseph Ricky Jackson
1427 Lorraine Street
Pittsburgh, PA 15212
PRO SE